

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSE GUADALUPE PEREZ-
FARIAS, JOSE F. SANCHEZ,
RICARDO BETANCOURT, and all
other similarly situated persons,

Plaintiffs,

v.

GLOBAL HORIZONS, INC., *et al.*,

Defendants.

NO. CV-05-3061-RHW

**ORDER ADDRESSING
PENDING MOTIONS**

Before the Court is Plaintiffs' Request for Clarification of Denied Work Subclass Definition for Amended Judgment (Ct. Rec. 867) and Plaintiffs' Motion for Relief Under Rule 59(e). The motions were heard without oral argument.

Before addressing the pending motions, it is necessary to review the posture of this case. On July 28, 2006, Judge Leavitt certified the class and also bifurcated the trial and separated the liability and damages issues. On July 11, 2007, Judge McDonald granted partial summary judgment, found that Defendants violated the Migrant and Seasonal Agricultural Worker Protection Act ("AWPA") and the Washington Farm Labor Contractor Act ("FLCA"), and awarded statutory damages under FLCA. On August 10, 2007, this Court vacated the judgment with respect to damages.

In ruling on his order on bifurcation, Judge Leavitt envisioned that Plaintiffs would present evidence pertaining to the absent class members' damages if Plaintiffs prove class-wide liability (Ct. Rec. 137, p.7) and also relied on the

1 bifurcation of issues in certifying the class (Ct. Rec. 136). In reading Plaintiffs’
2 briefing, however, it appears that Plaintiffs contend that individual determinations
3 with respect to damages other than discrimination damages may not be necessary.
4 Rather, class members are automatically entitled to damages because liability has
5 been established.

6 Plaintiffs will have to decide how they wish to seek damages. While the
7 underlying liability issues were found to be sufficiently common to require class
8 treatment, the damages suffered by the members of the class may differ as to some
9 claims and be common as to others. For instance, Judge McDonald found that
10 Defendants violated FLCA by failing to provide the required written disclosures in
11 Spanish. If a class member was fluent in English, that person would not
12 necessarily be entitled to damages for the failure to provide the written disclosures
13 in Spanish. In addition, the amount of damage awarded for a class member, either
14 liquidated or actual, may depend on the individual circumstances of the class
15 member.

16 Against this backdrop, the Court reviews Plaintiffs’ motions. Plaintiffs first
17 request that the Court amend the October 27, 2007 order with an amended
18 definition set forth in their briefing. The Grower Defendants did not oppose the
19 amended definition and the Court will grant Plaintiffs’ request and amend the
20 October 27, 2007 judgment using Plaintiffs’ amended definition of the Denied
21 Work Subclass.

22 Plaintiffs also ask the Court to rule that the class definition for the Denied
23 Work Subclass that will be included in the Amended Judgment be limited to the
24 claims decided by the jury. The result being is that the class definitions set forth in
25 Judge Leavitt’s order would be read to include all farm workers who “applied at”
26 Global Horizons for agricultural employment in Washington State at Green Acres
27 or Valley Farm, regardless of whether they were offered employment.
28 Additionally, Plaintiffs ask the Court to amend the Findings of Fact and

1 Conclusions of Law to explicitly limit the scope of the Court's ruling regarding
2 proof of damages to the FLCA claims litigated at trial and to limit the scope of the
3 Court's rulings to class members seeking actual damages.

4 The Court denies the Plaintiffs' motions on these issues. The Court finds
5 that the relationship between the claims decided on summary judgment and the
6 claims decided by the jury should be analyzed in the context of the Plaintiffs'
7 anticipated damage presentation for each claim for which liability has been
8 established. When the Plaintiffs decide what damages for what class members
9 require proof and which require no proof, the Court can then decide the issues
10 raised by these motions. It is clear to the Court that the vacation of the damage
11 award of Judge McDonald left the amount of recovery and the parties to recover
12 open to a trial. At this point, no member of the class is entitled to damages other
13 than those awarded by the jury. For instance, whether and how much an illegal
14 alien can recover for violations of FLCA will depend on the circumstances of the
15 alien and the nature and scope of the violation.

16 Thus, it is important for the parties and the Court to have a complete and
17 thorough understanding of the individual and class damages claims that remain to
18 be tried. The Court finds it is necessary for the Plaintiffs to advise the Defendants
19 of their position as to the damages it seeks on a class basis without individual proof
20 and those that it seeks to prove individually. The Defendants should respond. The
21 parties should then confer and present to the Court a proposed course of action
22 outlining the areas of agreement and disagreement. The Court will then have a
23 hearing to resolve the disputes, if any, and schedule the trial on the remaining
24 damage claims. The parties should also address: 1) the amount of time necessary
25 to complete discovery; 2) amount of time needed to prepare for trial; 3) what type
26 of notice will go out to the classes; 4) whether there will be a claim administration
27 process in advance of any second trial; 5) what type of evidence or testimony will
28 be allowed (or required) of any class members; and 6) such other procedural or

1 substantive measures as may be necessary.

2 Accordingly, **IT IS HEREBY ORDERED:**

3 1. A telephonic status conference is set for **July 23, 2008, at 9:30 a.m.**, in
4 Spokane, Washington. The parties are directed to call the Court's conference line
5 at (509) 458-6380 at the designated time.

6 2. On or before June 6, 2008, Plaintiffs shall submit briefing regarding
7 their position as to the damages it seeks on a class basis without individual proof
8 and those that it seeks to prove individually.

9 3. On or before June 20, 2008, Defendants shall submit its responsive
10 briefing.

11 4. On or before July 7, 2008, the parties shall confer and present to the
12 Court a proposed course of action outlining the areas of agreement and
13 disagreement and addressing the issues as set forth above.

14 5. Plaintiffs' Request for Clarification of Denied Work Subclass Definition
15 for Amended Judgment (Ct. Rec. 867) is **GRANTED**, in part. The Court amends
16 the Judgment entered on October 23, 2007 as follows:

17 Denied Work Subclass: U.S. Resident farm workers who claim
18 they were offered employment by Global Horizons to work at Green
19 Acre Farms, Inc. or Valley Fruit Orchards, LLC in 2004, but were not
20 employed by Global Horizons in 2004.

21 6. Plaintiffs' Motion of Relief Under Rule 59(e) (Ct. Rec. 868) is
22 **DENIED**.

23 7. Plaintiffs' Motion for Reconsideration (Ct. Rec. 713) is **DENIED**, as
24 moot.

25 8. Ex Parte Motion (Ct. Rec. 759) is **DENIED**. (For docket management
26 purposes only).

27 9. Defendant's Motion for Leave to File Excess Pages (Ct. Rec. 786) is
28 **GRANTED**.

10. Defendant's Motion to Expedite (Ct. Rec. 788) is **GRANTED**.

11. Defendant's Motion for Judgment as a Matter of Law (Ct. Rec. 791) is **DENIED**. (For docket management purposes only).

12. Defendant's Motion to Expedite (Ct. Rec. 810) is **GRANTED**.

13. Plaintiffs' Motion to File an Overlength Brief (Ct. Rec. 812) is **GRANTED**.

14. Plaintiffs' Motion to Expedite (Ct. Rec. 834) is **GRANTED**.

15. Defendant's Motion for Leave to File Findings of Fact, Conclusions of Law and Post-Trial Brief (Ct. Rec. 837, 841) is **GRANTED**.

16. Plaintiffs' Motion to Expedite (Ct. Rec. 877) is **GRANTED**.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order and to provide copies to counsel.

DATED this 23rd day of May, 2008.

s/Robert H. Whaley

ROBERT H. WHALEY
Chief United States District Court

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